

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**HARLIE E. SMITH,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE,  
Commissioner of Social Security,**

**Defendant.**

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**Case No. 3:07-cv-0611**

**Judge Thomas A. Wiseman, Jr.**

**ORDER**

Plaintiff Harlie E. Smith filed this action seeking judicial review of the decision of the Commissioner of Social Security denying his claim for disability insurance benefits ("DIB") on the grounds that Plaintiff did not become disabled until after December 31, 2002, his date last insured ("DLI"). This case was referred to United States Magistrate Judge Joe Brown pursuant to 28 U.S.C. § 636(b)(1)(B), who issued a Report and Recommendation ("R&R") recommending that Plaintiff's Motion for Judgment on the Record (Doc. No. 15) be denied and that the decision of the Commissioner be affirmed. Plaintiff thereafter filed timely objections to the R&R (Doc. No. 20).

In his objections, Plaintiff asserts that Magistrate Judge Brown erred in (1) finding that substantial evidence supported the ALJ's determination that Plaintiff had two distinct shoulder injuries instead of one; (2) finding that substantial evidence supported the ALJ's conclusion that Plaintiff's disability onset date was May 4, 2004, well after Plaintiff's DLI; and (3) failing to find the ALJ erred in not giving substantial weight to the medical assessments of treating physicians Dr. Charles W. Emerson and Dr. Johan Culclasure.

The Court has reviewed *de novo* the entire record and the pleadings, with particular attention to those portions of the record that are relevant to Plaintiff's objections. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). For the reasons set forth in the accompanying Memorandum Opinion, the Court finds that the ALJ's decisions regarding Plaintiff's two shoulder injuries and his disability onset date are supported by substantial evidence in the record and that the ALJ did not err in disregarding the opinions of Drs. Emerson and Culclasure since those opinions were not given until more than a year after Plaintiff's DLI

and did not purport to relate back to the time frame prior to the DLI. Consequently, the Court hereby **ACCEPTS** the Magistrate Judge's Report & Recommendation. Plaintiff's Motion for Judgment (Doc. No. 15) is therefore **DENIED**, and the Commissioner's decision **AFFIRMED**.

Judgment is hereby entered in favor of the Defendant Commissioner, and this Order constitutes a final judgment pursuant to Fed. R. Civ. P. 58, from which an appeal may lie.

It is so **ORDERED**.



Thomas A. Wiseman, Jr.  
Senior U.S. District Judge